

**DEPARTMENT OF STATE REVENUE**

**LETTER OF FINDINGS NUMBER: 92-0936 CSET**

**CONTROLLED SUBSTANCE EXCISE TAX  
FOR TAX PERIODS: 1992**

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**ISSUE**

**1. CONTROLLED SUBSTANCE EXCISE TAX: IMPOSITION**

**Authority:** IC 6-7-3-5

Taxpayer protests the imposition of Controlled Substance Excise Tax.

**STATEMENT OF FACTS**

Taxpayer was arrested for possession of marijuana on October 23, 1992. The Indiana Department of Revenue issued a Record of Jeopardy Finding, Jeopardy Assessment, Notice and Demand on October 27, 1992 in a base tax amount of \$29,920.00. Taxpayer timely protested the assessment and a hearing was held by telephone on March 18, 1999. Taxpayer was represented by James T. Beaman, Attorney. Further facts will be provided as necessary.

**CONTROLLED SUBSTANCE EXCISE TAX: IMPOSITION**

### **DISCUSSION**

IC 6-7-3-5 imposes the Controlled Substance Excise Tax on the possession of marijuana in the State of Indiana. Taxpayer bears the burden of proving that the assessment of tax is incorrect. On October 22, 1992, Taxpayer and her husband were taken hostage and tied up in their home by several men who claimed they were police officers. These men were later convicted in the matter. On October 23, 1992, real police officers arrived and allegedly found marijuana in the house. Since the house was titled in the name of Taxpayer and her daughter, those two persons were arrested for the possession of marijuana and assessed the controlled substance excise tax. The Indiana State Police were called in to independently investigate the matter. A letter from the county prosecutor indicates that the criminal charges were dropped as a result of the Indiana State Police investigation. Taxpayer has sustained her burden of proving that she was not in possession of the marijuana and the controlled substance excise tax was improperly imposed.

### **FINDING**

Taxpayer's protest is sustained.

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